

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF PENNSYLVANIA

David J. Spitzer	:	No. 17-10276-TPA
Jessica F. Spitzer	:	
	:	
Debtors	:	Chapter 13
	:	
PNC Bank, National Association	:	Hearing Date: 5/24/17 at 9:30 a.m.
	:	
Movant	:	Response Date: 4/20/17
	:	
vs.	:	
	:	
David J. Spitzer	:	
Jessica F. Spitzer	:	
Ronda J. Winnecour, Trustee	:	
	:	
Respondents	:	

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

The Motion for Relief from the Automatic Stay of PNC Bank, National Association, hereinafter referred to as “the **Bank**” respectfully represents:

MODIFICATION OF STAY

1. Debtors filed a Petition under Chapter 13 on March 20, 2017(the “**Petition Date**”).
2. Debtors, David J. Spitzer and Jessica F. Spitzer, purchased a 2016 Fiat 500X (VIN ZFBCFYCT33GP357385) (the “**Vehicle**”) pursuant to a Retail Installment Sale Contract dated February 11, 2016 in the original principal amount of \$35,004.78 (the “**Note**”), a copy of which is attached hereto as Exhibit "A."
3. The Bank is the holder of a security interest in the aforesaid Vehicle, which interest has been perfected through notation on the Pennsylvania Certificate of Title. A copy of the Lien and Title Information Report is attached hereto as Exhibit "B."
4. The payoff on Debtors’ obligation under the Note is \$33,041.95 with a monthly payment in the amount of \$521.21 at 6.50% interest.

5. The Debtors are delinquent in payment of their obligation under the Note being due for the November 26, 2016 through and including March 26, 2017 payments in the amount of \$2,606.05, plus applicable legal fees and costs, and all subsequent payments to date.

6. Debtors' Schedules place a value of \$20,000.00 on the Vehicle.

7. Debtors' Chapter 13 Plan dated March 17, 2017 states that Debtors intend to surrender the Vehicle to Movant.

8. The Bank has been unable to verify appropriate insurance coverage on the Vehicle as required by the terms of the Note.

9. The Bank has no knowledge, information, or belief as to the existence of other liens encumbering the Vehicle.

10. If the Bank is not permitted to foreclose its security interest and repossess and sell the Vehicle, the Bank will suffer further irreparable injury, loss and damage.

11. Pursuant to 11 U.S.C. §362(d)(1), "the court shall grant relief from the stay provided under subsection (a) of this section...for cause, including the lack of adequate protection of an interest in property . . ."

12. Movant is entitled to relief pursuant to 11 U.S.C. §362(d)(1) because its interest in the Vehicle is not being adequately protected by monthly payments or otherwise.

13. 11 U.S.C. §362(d)(2) states that "the court shall grant relief from the stay provided under subsection (a) of this section ... with respect to a stay of an act against property . . . if (A) the debtor does not have an equity in such property ..."

14. Movant is entitled to relief pursuant to 11 U.S.C. §362(d)(2) because there is little or no equity in the Vehicle for the benefit of the bankruptcy estate.

WHEREFORE, PNC Bank, National Association, moves that the stay pursuant to 11 U.S.C. Section 362 be modified to permit it to foreclose its security interest in the aforesaid Vehicle being a 2016 Fiat 500X (VIN ZFBCFYCT33GP357385), and that it be granted such other and further relief as is just.

Respectfully submitted,

TUCKER ARENSBERG, P.C.

DATE: 4/3/17

By: /s/ Brett Solomon
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